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EXAMINER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PETER PERTHOU

Appeal 2009-013934
Application 09/752,015
Technology Center 3600

Before TERRY J. OWENS, HUBERT C. LORIN and JOHN C. KERINS,
Administrative Patent Judges.

OWENS, *Administrative Patent Judge.*

DECISION ON APPEAL

The Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1- 6 and 11, which are all of the pending claims.¹ We have jurisdiction under 35 U.S.C. § 6(b).

The Invention

The Appellant claims a key ring and a method for making it. Claims 1 and 11 are illustrative:

¹ The sole rejection of claims 3 and 5, which is an obviousness-type double patenting rejection over the claim of US D435,720 S, is withdrawn in the Examiner's Answer (Ans. 2). Hence, the claims before us are claims 1, 2, 4, 6 and 11.

1. A key ring comprising,

A key-holding ring having a cross-sectional span

a band,

a D-ring coupling said band to said key-holding ring,

said D-ring having a U-shaped portion engaging the key-holding ring and a bar having bar ends between the U ends of the U-shaped portion of length corresponding to the distance between the U ends and engaging the band over substantially the entire length of the bar formed with a gap intermediate the U ends of gap width about that of said cross-sectional span to allow said key-holding ring to pass through said gap into said D-ring during assembly.

11. A method of making a key ring that includes a key-holding ring having a cross-sectional span, a band, a D-ring coupling said band to said key-holding ring and having a U-shaped portion engaging the key-holding ring and a bar having bar ends between the U ends of the U-shaped portion of length corresponding to the distance between the U ends formed with a gap intermediate said bar ends of gap width about that of said cross-sectional span to allow said key-holding ring to pass through said gap into said D-ring during assembly, comprising,

passing the key-holding ring through the gap into the D-ring,

passing the band through the D-ring about the bar so that opposed portions of the band may be fastened together for most of the length of the band, and fastening the opposed portions together.

The References

Miller	1,704,137	Mar. 5, 1929
Momemers ²	4,523,443	Jun. 18, 1985
Jung	4,903,514	Feb. 27, 1990
Chen	5,069,050	Dec. 3, 1991

² By certificate of correction, “Momemers” is corrected to “Mommers”. Because the Examiner and the Appellant both refer to the reference as “Momemers”, we likewise do so for consistency.

The Rejections

The claims stand rejected under 35 U.S.C. § 103 as follows: claims 1, 6 and 11 over Chen in view of Jung and Momemers, and claims 2 and 4 over Chen in view of Jung, Momemers and Miller.

OPINION

We reverse the rejections. We need to address only the independent claims (1 and 11).³ Those claims require a key-holding ring and D-ring, the D-ring having a bar with a gap therein of width about equal to the width of the cross-sectional span of the key-holding ring.

For disclosures of a bar having a gap the Examiner relies upon Jung and Momemers (Ans. 4). Jung discloses a combined nail clipper and key holder comprising an elongated nail clipper container (11), a triangular-shaped connecting member (14), one side of which has a gap in its central portion with a prong on each side of the gap that extends into nail clipper container 11 for fastening connecting member 14 to nail clipper container 11, and a key ring (15) in looping engagement with connecting member 14 (col. 2, ll. 18-22, 45-50; Figs. 1, 3). Momemers discloses a key keeper comprising a D-shaped loop (3) having a U-shaped portion and, between the ends of the U-shaped portion, a bar having a gap (17) therein for receipt of keys onto loop 3 (abstract; col. 2, ll. 39-41; Fig. 1). On each side of the gap is a leg (15 or 16) that projects into a cavity in a loop holder (2) (col. 3, ll. 44-47; Fig. 1).

The gap in Jung's connecting member (14) is illustrated as being much wider than the width of the cross-sectional span of the key ring (15) (Fig. 1), and

³ The Examiner does not rely upon Miller for any disclosure that remedies the deficiency in Chen, Jung and Momemers as to the independent claims (Ans. 6-7).

Momemers' gap is in a key-retaining loop (3), not in a ring through which a key ring passes, and has an undisclosed width (col. 3, ll. 44-51; col. 4, ll. 1-4).

The Examiner argues that "one of ordinary skill in the art would have appreciated that the gap in Momemers's loop that is suitable for receiving keys (col. 3, l. 42) also would be suitable for receiving a key ring" (Ans. 8). The Examiner, however, does not explain how Momemers, alone or in combination with the other applied references, would have rendered the Appellant's gap width, which is specifically relied upon by the Appellant for patentability (Br. 10), *prima facie* obvious to one of ordinary skill in the art.

Thus, the Examiner has not established that even if the references were combined as proposed by the Examiner, the Appellants' claimed invention would result. *See Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1052 (Fed. Cir. 1988). Accordingly, we reverse the rejections.

DECISION

The rejections under 35 U.S.C. § 103 of claims 1, 6 and 11 over Chen in view of Jung and Momemers, and claims 2 and 4 over Chen in view of Jung, Momemers and Miller are reversed.

REVERSED

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